

From: Chambers, Micah
To: [Magallanes, Downey](#); [Bowman, Randal](#); [Timothy Williams](#)
Subject: Fwd: National Monument Letter from Rep. Cook
Date: Thursday, June 08, 2017 5:07:31 PM
Attachments: [06-08-17 Monument Letter to Secretary Zinke.pdf](#)
[image001.gif](#)
[image002.gif](#)

----- Forwarded message -----

From: **Itnyre, Tim** <Tim.Itnyre@mail.house.gov>
Date: Thu, Jun 8, 2017 at 6:02 PM
Subject: National Monument Letter from Rep. Cook
To: "micah_chambers@ios.doi.gov" <micah_chambers@ios.doi.gov>

Micah,

I've attached a pdf of Rep. Cook's monument letter and the various enclosures (maps, a letter from San Bernardino County, and a letter from NewCastle Gold). To keep the file size down, I put it all in a single pdf. The first 5 pages are Rep. Cook's letter and the remaining 28 pages are the enclosures. Please don't hesitate to contact me if you have any additional questions or if there is any additional information I can provide. There will also be a hard copy coming in the mail. Thank you so much for all your help with this!

Tim Itnyre

Legislative Director

Congressman Paul Cook | Eighth District of California

[1222 Longworth | Washington, DC 20515](#)

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Micah Chambers
Acting Director

Office of Congressional & Legislative Affairs
Office of the Secretary of the Interior

COL. PAUL COOK (RET.)
8TH DISTRICT, CALIFORNIA

1222 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
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HOUSE COMMITTEE ON
ARMED SERVICES

HOUSE COMMITTEE ON
NATURAL RESOURCES

HOUSE COMMITTEE ON
FOREIGN AFFAIRS

Congress of the United States
House of Representatives
Washington, DC 20515-0508

June 8, 2017

The Honorable Ryan Zinke
Secretary, The Department of the Interior
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

RE: Review of National Monuments

Dear Secretary Zinke:
Ryan

This letter is in response to your request for my thoughts regarding the ongoing review of National Monuments related to President Donald Trump's Executive Order 13792. I appreciate your willingness to not only listen to my perspective on the matter, but also the views of my constituents.

As you might be aware, my district contains four National Monuments that were recently established through the Antiquities Act. These designations were controversial and left many of my constituents feeling excluded from the process. In this letter, I've addressed the major points of contention for each monument, and, again, I appreciate your interest in addressing these concerns, as they are of great importance to my constituents and California as a whole.

Castle Mountains National Monument

The Castle Mountains National Monument was designated by former President Obama on February 12, 2016. It covers 20,920 acres of BLM land in San Bernardino County. This land was transferred to National Park Service management when the monument was designated. Although this is the smallest of the four monuments in my district, it is also the most problematic. This monument was created without any local outreach or input. It was designated for one purpose: to prevent the reopening of the Castle Mountain Mine operated by NewCastle Gold. If reopened, this mine will employ hundreds of workers and could generate hundreds of millions of dollars in economic activity and tens of millions of dollars in revenue for local governments. For these reasons, in 1994, when the nearby Mojave National Preserve was established, the Castle Mountains area was excluded from the designation in order to allow continued mining operations. While there have been proposals to add to the Mojave National Preserve some

components of the Castle Mountains area that are not needed for mining, there has never been a legislative proposal to establish a separate Castle Mountains National Monument. The first time such a monument was proposed was in the fall of 2015, mere months before former President Obama unilaterally designated the monument. The sole public meeting on the proposal was held on October 13, 2015, and it was located in a different county, over 200 miles from the site of the proposed monument. Additionally, despite repeated promises by administration officials that the new desert monuments would preserve existing uses of public land, the Castle Mountains National Monument immediately banned hunting – despite the fact that hunting is allowed in the nearby Mojave National Preserve and had been allowed in the Castle Mountain area prior to the monument designation.

I have enclosed letters from both the County of San Bernardino and NewCastle Gold detailing the issues that the two primary local stakeholders have with the monument designation. While Castle Mountains National Monument is less than 100,000 acres, the aforementioned letters and the evidence I've provided here make clear that there was no real public outreach or coordination and thus is worthy of the utmost scrutiny by your department. I request that the President revise the boundaries of the monument as depicted on the enclosed map entitled "Proposed Castle Mountain National Monument Boundary Revisions" (dated May 18, 2017). Furthermore, I would like to endorse the proposed changes to the proclamation establishing the monument detailed in NewCastle Gold's letter. Finally, I request that the administration restore management of all land in the Castle Mountains to the Bureau of Land Management and allow hunting within the remaining Castle Mountains National Monument.

Mojave Trails National Monument

The Mojave Trails National Monument was designated via proclamation by former President Obama on February 12, 2016. It covers 1.6 million acres of Bureau of Land Management managed land in San Bernardino County and is one of the largest National Monuments in our country. Mojave Trails National Monument was first proposed in legislation by Senator Feinstein nearly a decade ago and has been widely debated in San Bernardino County ever since. Without a doubt, many of the areas within the monument possess strong conservation value, however there are also a number of active mining claims that were adversely affected by the designation. In my opinion, the monument boundary was drawn specifically to disrupt these operations – adding little by way of conservation value, but furthering the goal of the Obama administration and many others in shutting down all mineral extraction in the desert. In particular, the Bagdad Chase Mine and Baxter Iron Mine include mineral claims that are located partially or entirely within the monument. While the proclamation included language protecting valid existing rights, the monument designation could prevent the future expansion of the mines during periods of high commodity prices. I request that the President modify the boundaries of the monument as depicted on the enclosed map titled "Proposed Mojave Trails National Monument Revisions" (dated June 6, 2017) to remove both mines and the surrounding lands from the boundaries of the monument.

Furthermore, after numerous legislative proposals in Congress to establish a Mojave Trails National Monument failed, most notably Senator Feinstein's California Desert Conservation and Recreation Act (S. 414) during the 114th Congress, President Obama disregarded agreed-upon monument boundaries in favor of a significantly larger one that had never been considered by Congress. Rather than use the 970,000 acre footprint established in numerous pieces of legislation, President Obama nearly doubled the monument's size to over 1.6 million acres. Some of this expansion made sense from a land management perspective: the Trilobite, Clipper Mountain, Piute Mountains, and Bigelow Cholla Garden Wilderness areas are all located entirely within the Monument and are a critical component of any management plan. On the other hand, former President Obama also included hundreds of thousands of acres of non-designated BLM land to the south – well beyond the boundaries proposed in legislation – which complicates the land management process by creating multiple enclaves of private land within the monument. The expanded version of the monument was never debated in a public setting, and no public outreach was conducted with any of the local desert communities affected by the decision. While some of the public lands included in this expansion contain historic and conservation value, monument designation should only be given after extensive public debate and input. I request that the President modify the boundaries of the monument to eliminate this expanded southern area as depicted on the enclosed map entitled "Proposed Mojave Trails National Monument Revisions" (dated June 6, 2017).

Finally, I would like to highlight a major omission in the Mojave Trails National Monument. Five congressionally-designated Wilderness areas that are located partially within the Monument or immediately adjacent to it were not included in the designation. The Kelso Dunes, Bristol Mountains, Stepladder Mountains, Turtle Mountains, and Chemehuevi Mountains Wilderness areas were all designated as Wilderness after an extensive legislative process and are a critical part of the desert ecosystem. Their inclusion in the Mojave Trails National Monument would improve the monument by including some of the most stunning natural features that the Mojave Desert has to offer. Additionally, it would allow the monument's management plan to act as a comprehensive land management plan for most of the BLM land in the southern Mojave Desert. I request that the President revise the monument boundary to include these five wilderness areas as depicted on the enclosed map entitled "Proposed Mojave Trails National Monument Revisions" (dated June 6, 2017).

San Gabriel Mountains National Monument

The San Gabriel Mountains National Monument was designated via proclamation by former President Obama on October 10, 2014. It spans a total of 346,177 acres across Los Angeles and San Bernardino counties in California. While significant public outreach was conducted throughout Los Angeles County during the planning process for the monument, there was virtually no outreach with regard to communities in San Bernardino County. The San Bernardino County portion of the monument includes 4,873 acres of non-wilderness Forest Service land, in

addition to the Sheep Mountain Wilderness area. The Sheep Mountain Wilderness was designated through the legislative process, and I have no objections to its presence in the Monument. However, the inclusion of 4,873 acres of non-wilderness Forest Service land was widely opposed by local residents due to its encroachment on local communities and economic activity – including a ski resort – and for its potential impact on forest management activities. I request that the President revise the boundary of the monument to remove these 4,873 acres as depicted on the enclosed map entitled “Proposed San Gabriel Mountains National Monument Boundary Revisions” (dated May 10, 2017).

Sand to Snow National Monument

The Sand to Snow National Monument was designated via proclamation by former President Obama on February 12, 2016. It covers 154,000 acres of Bureau of Land Management and U.S. Forest Service managed land across San Bernardino and Riverside counties in California. With regard to federal land-use policies, I find it preferable that monument designations be carried out through the legislative process, as opposed to unilateral designation through the Antiquities Act. However, in cases where the Antiquities Act is utilized, the Sand to Snow National Monument should be the standard-bearer for future monument designations. The boundaries of the monument largely match previous legislative proposals that were vetted by local communities and stakeholder groups for the better part of a decade. Numerous public meetings occurred to discuss the designation, which resulted in widespread public support among local elected leaders and the public. In fact, I, along with Senator Feinstein, introduced legislation in the 114th Congress to designate a Sand to Snow National Monument largely along the same boundaries created by President Obama. With extensive public input and demonstrated local support, I recommend that the President leave the boundaries of the Sand to Snow National Monument intact. My only request is that the management plan for the monument include a provision allowing for the installation of a telecommunications facility in the “Morongo Gorge” region of the monument, as depicted on the enclosed map entitled “Proposed Sand to Snow National Monument” (dated August 4, 2015). This has long been one of the most dangerous segments of State Route 62, and the lack of cellular phone service in the gorge puts public safety at risk by preventing the timely reporting of accidents and dangerous situations. A telecommunications tower in the gorge would eliminate this dangerous cellular phone dead zone.

I hope you find this information helpful to your efforts. It’s important to note that my aforementioned comments should not be construed as having a bias against conservation. I’ve been lucky to represent California’s most ecologically rich congressional district, with a landscape including both the highest (Mount Whitney) and lowest (Death Valley) points in the lower 48 states and three of the largest and most beautiful National Parks in America. I visit Joshua Tree National Park regularly and consider it one of the crown jewels of our park system. However, in addition to being a conservationist, I’m also a strong proponent of the philosophy that public lands should be managed with multiple uses in mind. It is becoming increasingly

apparent that federal policies implemented over the last decade have favored a myopic environmentalism at the expense of economic and recreational activities. Anything that you can do to restore this balance would be of tremendous benefit to my district.

If you need additional information regarding the issues raised in this letter, don't hesitate to contact me or my staff at (202) 225-5861. I appreciate the hard work you do on behalf of the American public.

Sincerely,



Col. Paul Cook (Ret.)
Congressman, 8th District of California

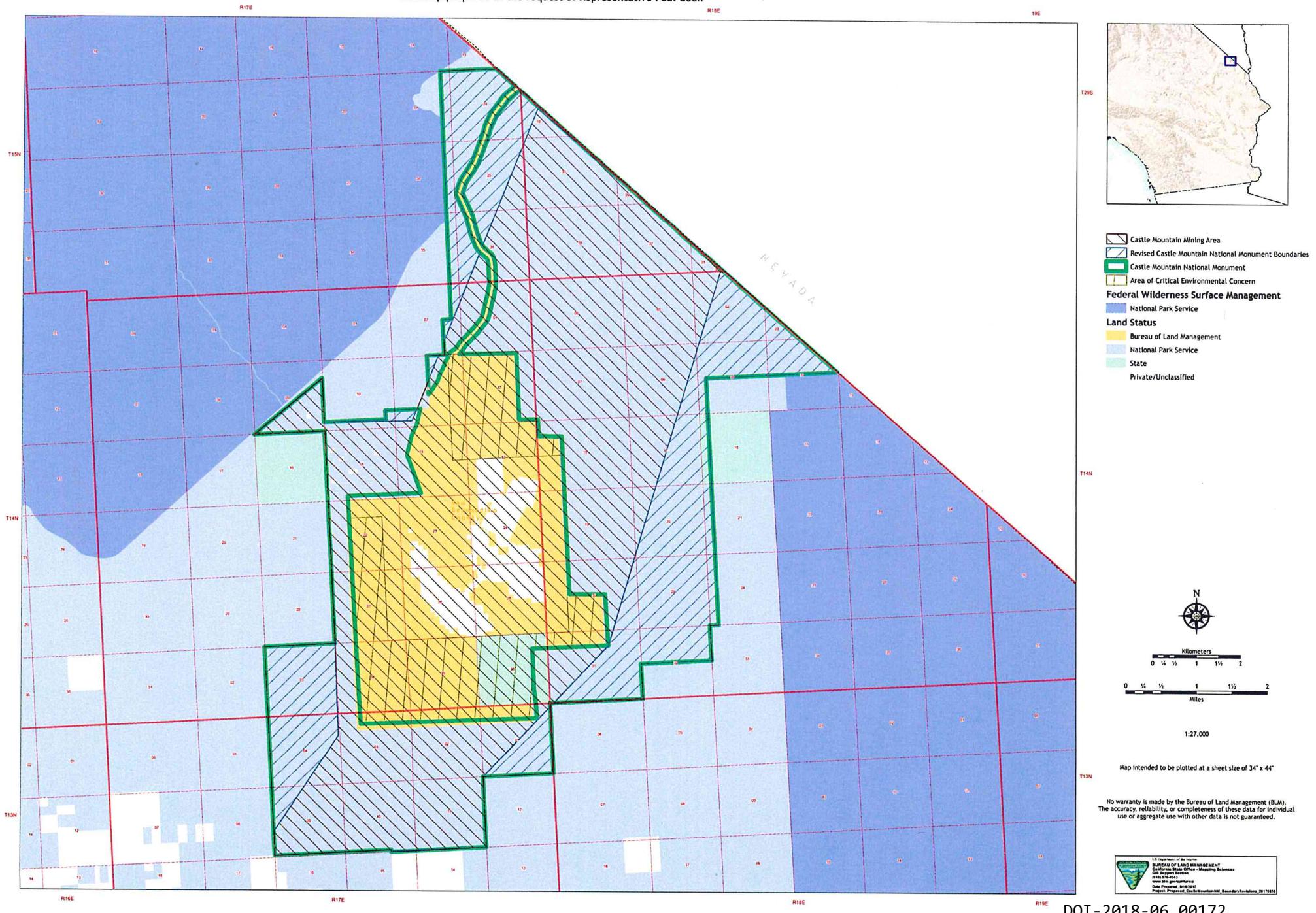
Enclosures (6):

1. "Proposed Castle Mountains National Monument Boundary Revisions" Map
2. "Proposed Mojave Trails National Monument Revisions" Map
3. "Proposed San Gabriel Mountains National Monument Boundary Revisions" Map
4. "Proposed Sand to Snow National Monument" Map
5. San Bernardino County Letter to Secretary Zinke
6. NewCastle Gold Letter to Secretary Zinke

Proposed Castle Mountain National Monument Boundary Revisions

May 18, 2017

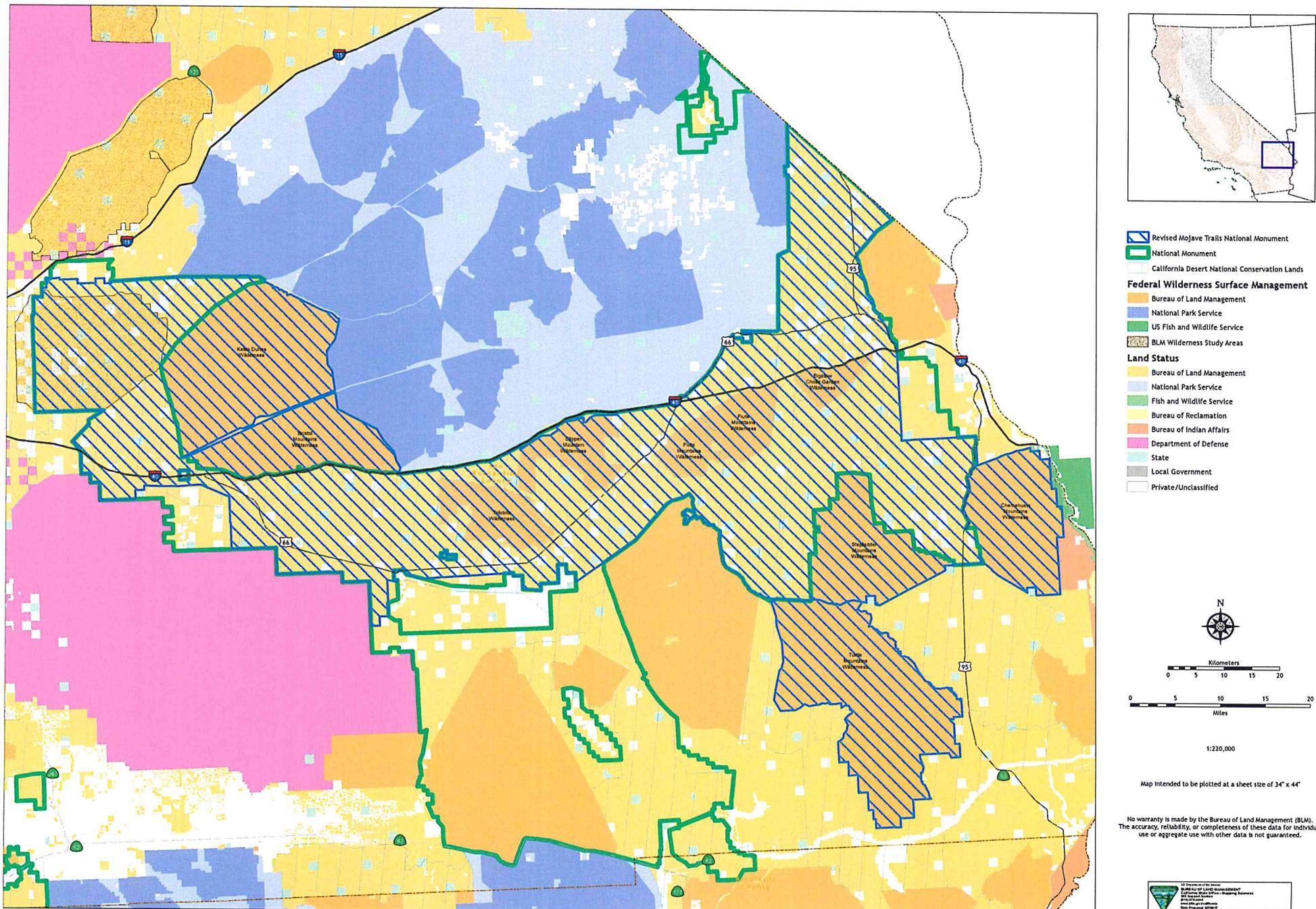
This map prepared at the request of Representative Paul Cook



Proposed Mojave Trails National Monument Revisions

June 6, 2017

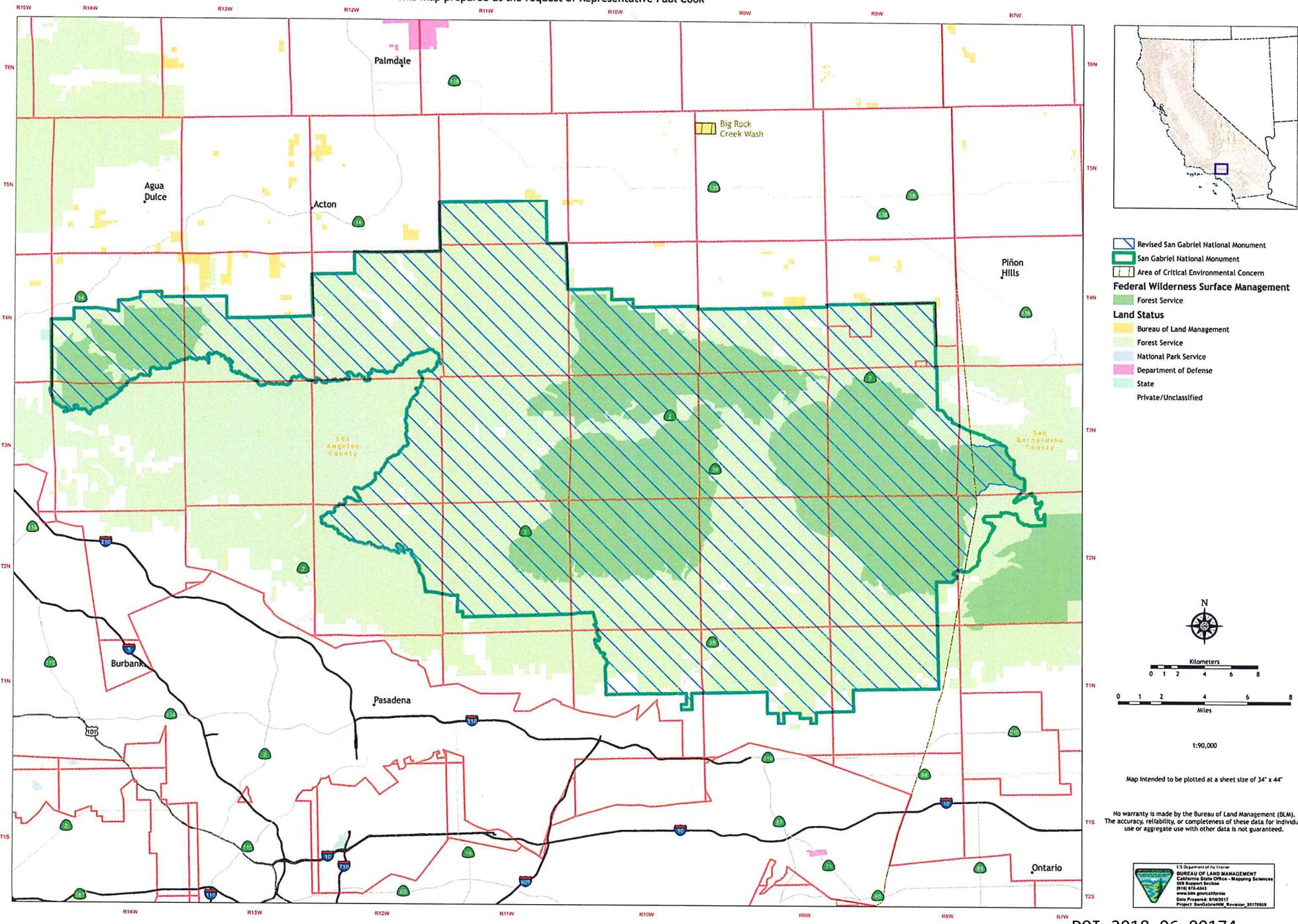
This map prepared at the request of Representative Paul Cook



Proposed San Gabriel National Monument Boundary Revisions

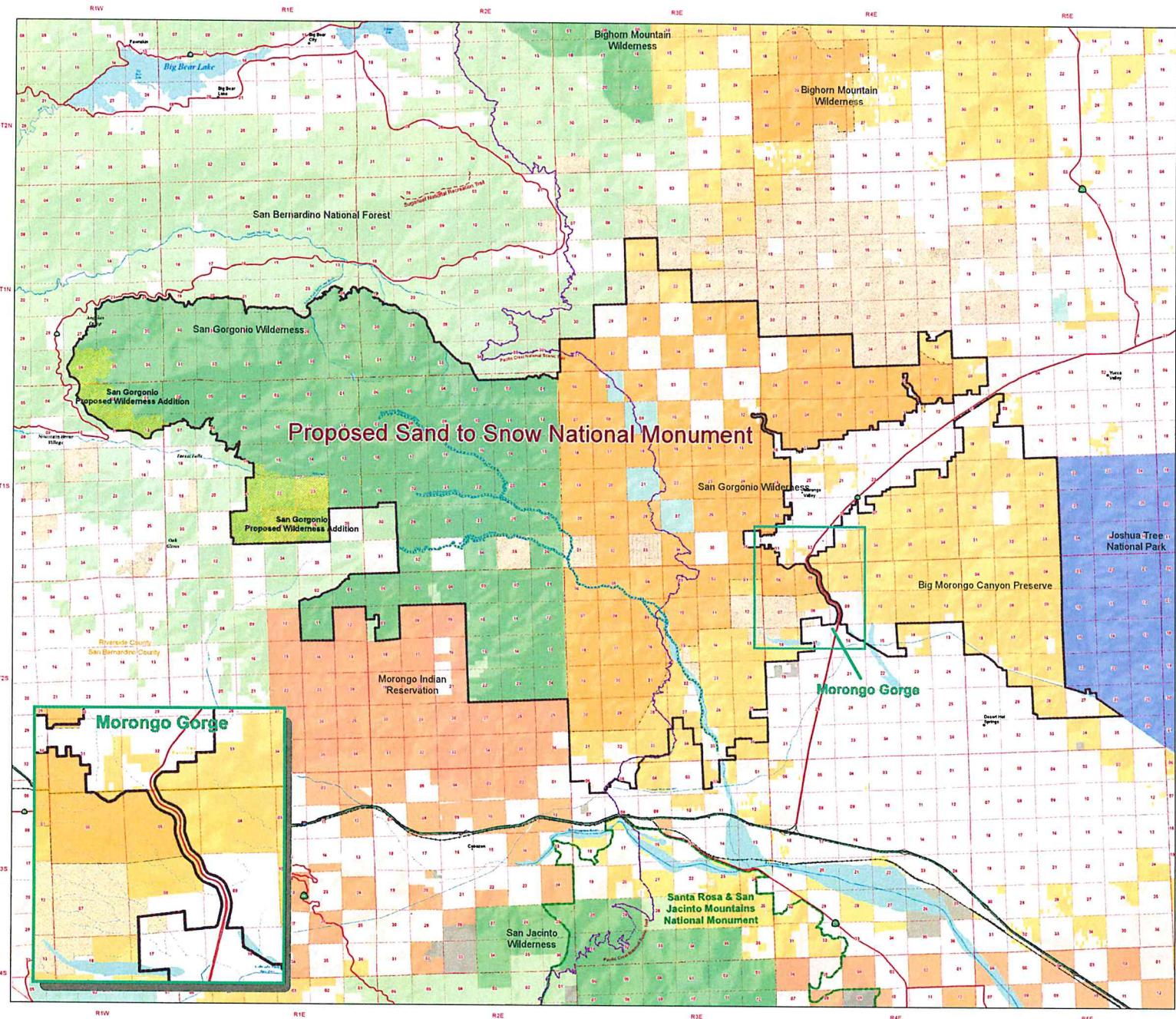
May 10, 2017

This map prepared at the request of Representative Paul Cook



Proposed Sand to Snow National Monument
August 4, 2015

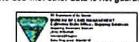
This map prepared at the request of Representative Paul Cook



- Federal Wilderness**
- Bureau of Land Management
 - National Park Service
 - US Fish and Wildlife Service
- Land Status**
- Bureau of Land Management
 - US Forest Service
 - National Park Service
 - Bureau of Reclamation
 - US Fish and Wildlife Service
 - Military
 - Other Federal
 - Indian Trust Asset
 - State
 - County/State/Regional
 - Private/Other
 - Private Land Owned by The Wildlands Conservancy

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County Administrative Office Governmental & Legislative Affairs

Josh Candelaria
Director

May 31, 2017

The Honorable Ryan Zinke
Secretary
U.S. Department of Interior
1849 C Street, N.W.
Washington, D.C., 20240

Dear Secretary Zinke:

On behalf of the County of San Bernardino, we appreciate the opportunity to comment on the Executive Order issued April 26, 2017 by President Donald J. Trump: Review of Designations under the Antiquities Act.

As you may be aware, there were four national monuments recently designated under The Antiquities Act that affect San Bernardino County: The San Gabriel Mountains National Monument designated on October 10, 2014, of which a portion is in our County, the Mojave Trails National Monument, and the Castle Mountains National Monument, both of which are wholly in San Bernardino County, and the Sand to Snow National Monument, in both San Bernardino and Riverside counties. The latter three were established February 12, 2016.

In the years leading up to the designations, the County's position has been that any national monument designations should go through the legislative process, rather than by Presidential Proclamation under The Antiquities Act. The legislative process provides for substantial vetting and public input by stakeholder groups in the establishment of boundaries and permissible activities. (Please see our letter to President Obama dated August 21, 2015, attached.)

The County has long been committed to striking a balance between conservation and economic development. Indeed our adopted Countywide Vision states in part, "We envision a sustainable system...in which development complements our natural resources and environment".

Our public lands are one of San Bernardino County's greatest assets, providing recreation, solace, and stunning vistas within a few hours of millions of Southern Californians, and millions more from throughout the country and around the world. It also provides additional benefit from direct economic activities, including tourism, filming of commercials and movies, grazing, and mining. Our County is one of the most geologically diverse in the world, with deposits of minerals from simple aggregates to silver, gold and rare earth elements. We regulate approximately 100 mines in our County alone, which provide high-paying jobs, revenue that supports County services and materials essential for building the state's infrastructure. National monument designations withdraw federal lands from mineral entry, "...subject to valid existing rights", which can provide an additional legal burden for small mine operators.

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DENA M. SMITH
Interim Chief Executive Officer

As your review of the monuments moves forward, we would like to make you aware of issues that concern San Bernardino County, which was expressed to the previous administration and other stakeholders.

Mojave Trails National Monument

At 1.6 million acres, the Mojave Trails National Monument is nearly 700,000 acres larger than the monument proposed by legislation in previous Congresses (most recently S. 414 in the 114th Congress), which was developed after years of outreach to stakeholder groups, including mining operators, tribes, environmental groups and the off-highway vehicle recreation community. However, when the monument boundaries were set by Presidential Proclamation, the boundaries covered the footprint of existing mining operations that were otherwise excluded from the proposed legislation boundaries. This makes access and future expansion problematic and increases the risk of abandonment liabilities for the County. We respectfully request that any modifications to the boundaries or management prescriptions exclude and accommodate the existing mining operations, and provide for their continued access and potential for expansion when their reserves are diminished.

Sand to Snow

At 154,000 acres, the Sand to Snow National Monument is subject to review by the Executive Order. The designation covered federal lands already protected and managed by the Bureau of Land Management and U.S. Forest Service, and the designation was generally supported by the local communities.

San Gabriel Mountains National Monument

At 346,000 acres, the San Gabriel Mountains National Monument also qualifies for review. Before designation, there was a proposal to have the boundaries extend deep into the San Bernardino National Forest. A potential monument had long been discussed in Los Angeles County, but there were no discussions in San Bernardino County. Our County objected on grounds that our residents, business owners and other stakeholders had no opportunity to discuss or debate the potential benefits or impacts of such a designation. The boundaries established by Presidential Proclamation covered existing federal lands within the Angeles National Forest, and largely excluded San Bernardino County, except for 4,000 acres of an already designated wilderness area.

Castle Mountains National Monument

At 21,000 acres, the Castle Mountains National Monument falls under the 100,000-acre threshold for review, however, the Executive Order also states: "...where the designation after expansion covers more than 100,000 acres, or where the Secretary determines that the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders, to determine whether each designation or expansion conforms to the policy set forth in section 1 of this order." The Castle Mountains area was previously excluded from being included in the Mojave National Preserve, established by the California Desert Protection Act of 1994, because it was the site of a sizable active mining operation. The mine idled for a time, but is now going through the rigorous regulatory process of reopening. The mine itself remains under the jurisdiction of the County and the Bureau of Land Management, but the Monument area surrounding it was transferred to the National Park Service.

If you choose to review the Castle Mountains National Monument under the April 16 Executive Order, we respectfully request that issues of access through the monument to the mine and access to water needed to service the mine be needed to accommodate future expansion, be addressed. The County believes that raised concerns were being addressed with the proposed legislation until the Presidential Proclamation ceased the dialogue.

We look forward to working with your department as this review process moves forward and we thank you for taking the concerns of San Bernardino County into consideration. If you have any questions regarding the County's position, please do not hesitate to contact Josh Candelaria, Director of Governmental and Legislative Affairs at (909) 387-4821 or jcandelaria@sbcounty.gov.

Sincerely,



ROBERT A. LOVINGOOD
First District Supervisor
Chairman, San Bernardino County Board of Supervisors

c: San Bernardino County Legislative Delegation

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June 1, 2017

VIA WEB AND U.S. MAIL

Mr. Ryan Zinke, Secretary
U.S. Department of the Interior
Monument Review, MS-1530
1849 C Street N.W.
Washington, DC 20240
<https://www.regulations.gov/comment?D=DOI-2017-0002-0001>

**Re: Review of Certain National Monuments Established Since 1996;
Comments of NewCastle Gold on Castle Mountains National Monument**

Dear Secretary Zinke:

On behalf of NewCastle Gold, and its wholly-owned subsidiary Castle Mountain Venture, I write to comment on the designation of the Castle Mountains National Monument (“CMNM”) as part of the Department of the Interior’s (“Department”) ongoing “Review of Certain National Monuments Established Since 1996; Notice of Opportunity for Public Comment.” 82 Fed. Reg. 22,016 (May 11, 2017). The 21,000-acre CMNM, designated in February 2016 by President Obama, is not directly on the list of National Monuments undergoing “initial review” (see 82 Fed. Reg. at 22,017), but is among those monuments that “should be reviewed because they were designated or expanded after January 1, 1996 ‘without adequate public outreach and coordination with relevant stakeholders.’” *Id.* (quoting Executive Order 13792 (Apr. 26, 2017), 82 Fed. Reg. 20,429 (May 1, 2017)).

As discussed below, unlike other recent national monuments, the CMNM was never identified in any legislative initiative, and received only minimal input by stakeholders, including NewCastle Gold. Indeed, the CMNM appears to have been a “last-minute” designation for the sole purpose of severely constraining if not outright eliminating NewCastle Gold’s Castle Mountain Gold Project (“Project” or “Mine”), a longstanding mine with an exemplary history of responsible operation on public lands. The CMNM is jeopardizing the Project’s potential to contribute quality jobs and millions of dollars in public revenue to local communities, and state and local governments; it also fails to meet the other criteria set forth in Executive Order 13792.

For these reasons, the CMNM should be reduced in size and its proclamation amended to allow the Project to proceed. These modest revisions will provide for the responsible, multiple use of public lands, thereby creating a balanced approach for meeting stakeholder interests and concerns, without sacrificing the CMNM’s purposes and values.

I. Reasons why the CMNM boundaries should be adjusted and its proclamation revised.

A. Background: The Castle Mountains area was, for decades, a buffer area supporting the Castle Mountain Gold Mine.

The area of California's Mojave Desert where the CMNM is located has a long history of management by the Department for multiple uses, in coordination with affected stakeholders. In 1994, Congress enacted the California Desert Protection Act, which established the 1.6 million-acre Mojave National Preserve ("Preserve") to be managed by the National Park Service ("NPS") primarily for conservation purposes. Importantly, the Preserve surrounds on three sides, but, as discussed below, specifically does not include, the Project and adjoining areas. In 1991, three years before the Preserve was created, the Bureau of Land Management ("BLM"), after consulting with its sister agencies, the County of San Bernardino ("County"), and other stakeholders, approved a plan of operations for the Project, then known as the Viceroy Gold Mine. In 1998, BLM approved an expanded plan of operations, again after extensive coordination with interested stakeholders, that remains valid to this day. NewCastle Gold or its predecessor also signed an agreement with conservation groups to advance environmental values in the region. Thus, from the beginning, relevant stakeholders—NewCastle Gold, permitting agencies, NGOs, and so on—have known of and supported the Project as a valid and important use of public land.

The area that the Project occupied and would need to occupy has also been recognized from the inception of the Preserve in 1994, when approximately 29,000 acres (or about 1.8% of the Preserve area) were excluded from or carved-out of the Preserve. That area, known as the Castle Mountain Mine Area ("Mine Area"), consisted of (1) about 7,458 acres of the Mine company's holdings, including patented and unpatented mining claims (the Project boundary), and (2) about 21,812 acres of adjoining BLM-managed public land (the Buffer Area, most of which is now within the CMNM boundary).

The Department, through the NPS and BLM, had always treated the Buffer Area surrounding the Project boundary as a zone between the Preserve and the Project, to be managed by BLM under its multiple-use mandate, including for Project-related purposes. In short, there was, and has always been, a commonly held understanding that the Preserve and the Project (including the Buffer Area) could and would co-exist, particularly given the small size of the Project relative to the Preserve and the Project's close oversight by BLM and the County.

B. The CMNM was established on the basis of inadequate and incorrect information.

As discussed above, in 1994, the California Desert Protection Act excluded the Mine Area (Project Boundary and Buffer Area) from the Preserve because the Project was active at the time the legislation was passed. On August 3, 2015, a request was made by Senator Feinstein to

President Obama that he designate almost the entire Castle Mountains Mine Area, with little or no buffer area, as a national monument. One of the rationales offered was that “the mine ceased operations in 2001.” This statement was plainly incorrect.

In 2002, the Project, like many other operations at that time, suspended operations due to the low price of gold (\$271 per ounce). The Project had not exhausted its reserves at that time and was merely responding to prevailing economic conditions (which have now again become favorable). For this reason, NewCastle Gold maintained its entitlements and completed a progressive reclamation program to ensure that any environmental liabilities associated with the site were minimized. Since that time, NewCastle Gold has continued progressive reclamation activities, while also undertaking new exploration activities that have successfully expanded the gold resources associated with the Project. NewCastle Gold has retained its key operational permits and is poised to start operations once gold ore reserve estimates, environmental studies, and mine planning are completed.

Thus, the initial purpose in 1994 for carving-out the Project boundary and surrounding Buffer Area from the Preserve—to allow the Project to operate and expand—applies equally strongly today in 2017. The premise in 2015 that a national monument was appropriate because there was no active or viable mining operation was erroneous.

C. The CMNM was established without adequate public outreach and coordination with relevant stakeholders, in an unreasonable five-month period with no environmental review.

Given the history of the Mine and the 1994 legislation, it was surprising and disappointing when, in February 2016, President Obama exercised his authority under the Antiquities Act to designate the 21,000-acre CMNM without any consultation with NewCastle Gold, and, as far as we are aware, little or no consultation with most other stakeholders or with Congress.¹ Before the designation, a single public meeting was held for combined input on three separate potential monuments, along with several other ACECs and wilderness areas.

¹ Compare, for example, the designation of the San Gabriel Mountains National Monument in southern California, which, according to the prior administration, was “buil[t] on more than a decade of public support from business, tourism, environmental justice, conservation, academic and cultural preservation communities and on the leadership from members of Congress.” Office of the Press Secretary, The White House, “President Obama Designates San Gabriel Mountains National Monument” (Oct. 10, 2014) (available at <https://obamawhitehouse.archives.gov/the-press-office/2014/10/10/president-obama-designates-san-gabriel-mountains-national-monument>). Other recent monuments, including Mojave Trails National Monument and Sand to Snow National Monument, were comprised largely of lands that Congress had already approved as wilderness. See The White House, “In Photos: President Obama Designates 3 National Monuments in California” (Feb. 17, 2016) (25% congressionally designated wilderness for Mojave Trails, 65% for Sand to Snow) (available at <https://obamawhitehouse.archives.gov/blog/2016/02/12/photos-president-obama-designates-3-national-monuments-california>).

NewCastle Gold wrote a letter expressing concerns that went unanswered. No meeting with CEQ occurred. The County also submitted a letter, dated August 21, 2015, stating that “[o]ne of our chief concerns is that designation of a national monument withdraws lands from mineral entry.” The County explained that mining provided critical minerals and thousands of high-paying jobs. Indeed, the Castle Mountains Gold Project alone was expected to generate annually more than \$7 million in direct revenue for the County and State and create 271 jobs at its peak operation.

This minimal public outreach was made worse by the “fast-track” timing of the CMNM’s designation. As discussed above, the request to designate the CMNM was made in August 2015. The CMNM was designated just six months later, on February 12, 2016. Not only did this compressed schedule preclude opportunities for meaningful public involvement, it meant that there were no reviews of the designation’s potential environmental or economic effects.

As the County explained in its letter, adequate public outreach includes public meetings, opportunities for public comment, environmental and economic reviews, and opportunities for public comment on those reviews. “Stakeholder input is imperative,” the County admonished, “to ensure any proposed designation creates a net positive benefit for the variety of interests that use the desert and that critical multiple use activities are preserved.” These and other reasonable requests for an open and transparent process went unheeded.

D. The CMNM was established without any congressional debate or mandate.

The most effective forum for considering withdrawals of public lands is Congress, where the need for a particular withdrawal and its purposes and boundaries can be debated and determined in an open and transparent way.

As far as we are aware, and in contrast to other recently-established national monuments, there was never a proposal introduced into the Congress to establish the CMNM. For example, Senate Bill 414 (Feinstein, 2015), would have created both the Mojave Trails and Sand to Snow National Monuments. See S.414, Titles XII-XIV. That same bill proposed that part of the Castle Mountains Mine Area be added to the Preserve, not designated a national monument. *See id.*, Title XVII. Without even a proposal to establish the CMNM, Congress never had the opportunity to weigh in on whether a monument was appropriate.

E. The CMNM was established for narrow purposes, to the Project’s detriment.

Not only is the CMNM’s designation procedurally inadequate, it also is substantively problematic. The CMNM is especially disappointing due to its: (1) sole focus on preserving habitat, wildlife linkages, and sacred sites and other cultural resources; (2) withdrawal of the lands surrounding the Project boundary, including much of the Buffer Area, that had been reserved for the Project and other multiple uses, for that narrow preservation purpose; and (3) provision that the Project area will be transferred to NPS jurisdiction within ten years unless

Secretary Ryan Zinke
June 1, 2017
Page 5

certain conditions are met. The designation also reserves “the availability of water resources, including groundwater resources, needed for monument purposes.” *See generally* Presidential Proclamation – Establishment of the Castle Mountains National Monument (Feb. 12, 2016) (*available at* <https://obamawhitehouse.archives.gov/the-press-office/2016/02/12/presidential-proclamation-establishment-castle-mountains-national>).

Under NPS regulations and the federal reserved water rights doctrine (as well as BLM’s restrictive September 2016 Desert Renewable Energy Conservation Plan), these provisions have the potential to severely limit any activity the Project might propose to undertake outside its already-approved Mine boundary. It will be difficult to explore for and develop new mineral and water resources, develop ancillary facilities, or expand the existing operational area. Indeed, the NPS is already requesting mineral validity examinations for water exploration activities on NewCastle Gold’s pre-existing mill site claims (which were already validated when the Mine’s previous owner applied for a patent) within the CMNM/Mojave National Preserve boundaries.

F. Executive Order 13792 factors

In addition to the above, the CMNM should be reduced and its proclamation amended for several other reasons, based upon the factors set forth in Executive Order 13792, 82 Fed. Reg. 20,429-20,430), including: (1): the 21,000 acre area is larger than needed; (2) the CMNM protects resources not contemplated under the Act; (3) the CMNM is inconsistent with multiple use principles; (4) the CMNM jeopardizes resources and benefits for the localities including County; and (5) the CMNM lacks adequate funding. (*Note: a more detailed discussion of these Executive Order factors is provide in Exhibit 1, attached hereto to this letter.*)

II. Requested action

NewCastle requests that the Department of the Interior recommend to the President that he exercise his authority under the Antiquities Act to:

- Reduce the size of the CMNM by roughly 50%, as shown on the attached map (**Exhibit 2**; revised monument boundary shown by blue line); *and*
- Revise the CMNM’s proclamation as shown on the attached redline, to allow the Project the flexibility it needs to explore for and develop new mining claims, water resources, and ancillary facilities (**Exhibit 3**).

III. Conclusion

We expect from our government decisions that are considered, balanced, and transparent. For decades the federal public lands that make up the Castle Mountains area were managed according to these principles, with interested stakeholders and agencies working together to achieve the highest and best uses of those public lands. The Castle Mountains Gold Project,

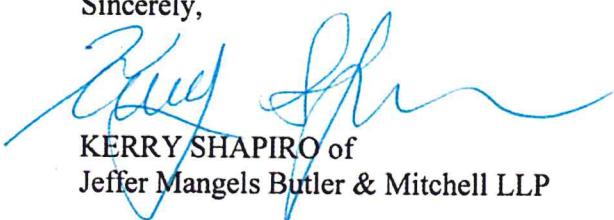
Secretary Ryan Zinke
June 1, 2017
Page 6

conservation, recreation and other uses existed in equilibrium, with changes supported by extensive review and coordination.

The CMNM disregards this history and these principles of good governance. The decision to designate the CMNM was made without public process and with little or no consultation with affected stakeholders or Congress. The designation effectively forecloses managing the public lands within the CMNM's boundaries for any use other than conservation. Indeed, the CMNM's restrictions are so significant that they make the Project difficult or impossible to operate, even on lands outside of the Monument. That outcome ignores the Project's long history of responsible operation and the substantial economic benefits it provides to local communities, San Bernardino County, and the State of California. And the designation is unnecessary given the effective protection of ecological, cultural, and recreational resources provided by the surrounding 1.6 million-acre Mojave National Preserve.

Modest changes to the CMNM's boundaries and proclamation to allow for the Project's long-contemplated operation and expansion will restore sensibility, credibility, and balance to the federal government's public land management. We appreciate your consideration of our comments.

Sincerely,



KERRY SHAPIRO of
Jeffer Mangels Butler & Mitchell LLP

Attachments (Exhibits 1-3)

cc: Congressman Paul Cook (with attachments)
Gerald Panneton, CEO, NewCastle Gold (with attachments)

Secretary Ryan Zinke
June 1, 2017
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EXHIBITS

Exhibit No. **Description**

- 1** Factors Set Forth in Executive Order 13792 (April 26, 2017), 82 Fed. Reg. 20,429-20-430 (May 1, 2017)
- 2** Map of proposed revised boundaries of the Castle Mountains National Monument
- 3** Proposed revised proclamation for the Castle Mountains National Monument

EXHIBIT 1

EXHIBIT 1

Factors Set Forth in Executive Order 13792 (April 26, 2017), 82 Fed. Reg. 20,429-20,430 (May 1, 2017)

The CMNM should be reduced and its proclamation amended for reasons based upon the factors set forth in Executive Order 13792, 82 Fed. Reg. 20,429-20,430, as set forth below:

- (i) *The CMNM fails to meet “the requirements and original objectives of the [Antiquities] Act, including the Act’s requirement that reservations of land not exceed ‘the smallest area compatible with the proper care and management of the objects to be protected’” (quoting 54 U.S.C. § 320301(b)).*

The CMNM is nearly 21,000 acres, far larger than needed to protect wildlife, wildlife habitat and linkages, cultural resources, and springs. The Mojave National Preserve, designated in 1994, already exists to protect over 1.6 million acres of cultural and ecological resources. There was no need to withdraw another 66% of the remaining 30,000 acres of land that had been set aside for the Project to operate and expand. The CMNM could be cut in half and still protect those resources most deserving of long-term conservation.

- (ii) *The lands designated as part of the CMNM are not “appropriately classified under the [Antiquities] Act as ‘historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest’” (quoting 54 U.S.C. § 320301(a)).*

According to its plain language, the Antiquities Act is aimed at preserving historic and prehistoric resources, as well as objects of “scientific interest.” Yet apart from scattered references to historic mining artifacts and unusual geologic formations, the CMNM’s proclamation is clearly aimed at protecting “habitat linkages, wildlife corridors, and intact ecosystems” and recreational opportunities. Even if these resources somehow qualify for protection under the Antiquities Act, they are not unusual and are of relatively low quality compared to similar resources in the existing Mojave National Preserve. And again the relative scale of the CMNM next to the Preserve is relevant: the lands that now make up the CMNM are just a tiny fraction of the Mojave National Preserve, and are not (at least not all of them) needed to ensure that the Preserve’s conservation goals are met.

- (iii) *The CMNM’s designation has profound and adverse effects on “the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land Policy and Management Act (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond the monument boundaries.”*

As discussed above, the Castle Mountains area has a long history of being managed

for multiple uses—since long before the Mojave National Preserve was created and nearly 25 years since. The Castle Mountains Gold Project has been approved and operating since 1991, to the economic benefit of local communities, San Bernardino County, and the State of California. Throughout this entire period the Project has been a lawful and accepted use of federal public lands.

However, if it is left in place, the CMNM will constrain or end the Project. BLM and other permitting agencies have long understood the Project's need to explore for and develop additional mineral and water resources, and expand operations, outside the approved Mine Boundary. The CMNM renders those activities legally and practically difficult, if not impossible. Indeed, by constraining what the Project does *outside* its approved Mine Boundary, the CMNM curtails what the Project does *inside* its Boundary, since water development and other ancillary activities are necessary to support existing operations. Such profound and adverse effects on responsible, economically valuable uses of public lands are yet another reason why the CMNM must be modified.

(iv) *The CMNM's designation has profound and adverse effects on "the use and enjoyment of non-Federal lands within or beyond monument boundaries."*

Much of the Project area, within the approved Mine Boundary, consists of patented mining claims owned in fee by NewCastle Gold. Like NewCastle Gold's operations on unpatented claims, the operations on its patented claims will be severely and adversely affected by the CMNM if it is left unmodified. *See* (iii) above.

(v) *The CMNM fails to take account of "concerns of State, tribal, and local governments affected by a designation, including the economic development and fiscal condition of affected States, tribes, and localities."*

The Project has long been an important source of revenue for nearby communities, San Bernardino County, and the State of California. The County explained in its August 21, 2015, letter objecting to the then-proposed CMNM that the Project was likely to generate more than \$7 million in revenue for the County and State, and create 271 jobs at its peak operation. NewCastle explained in its own letter (dated September 12, 2015), that combined federal, state, and local revenues would be \$300 million over the life of the Project and benefit local communities through direct expenditures. Constraining or eliminating the Project by virtue of the CMNM would eliminate these revenues and benefits. This loss is unlikely to be offset by, for example, additional recreational visitors to the CMNM, given how remote and intertemperate the CMNM is.

(vi) *There is no evidence of sufficient "availability of Federal resources to properly manage designated areas" in the CMNM.*

Prior to the CMNM's designation, the Project provided funds for the administrative costs of its management. In withdrawing yet another 21,000 acres of public lands

from multiple-use management, the CMNM provided no source of funding for managing those lands for conservation-only purposes. BLM must now fund any environmental studies and related documents itself. BLM already has far too few resources to manage the public lands; eliminating yet another revenue stream while adding to the agency's burdens is not good governance.

(vii) Other factors support modification.

As discussed above, the CMNM was an end-run around Congress and was rushed through with no environmental review. A decision with such profound, long-term consequences deserves greater deliberation.

NewCastle Gold is aware of the ongoing debate among legal scholars as to the authority of the President to revoke or modify the national monument designations of prior administrations. For the well-reasoned arguments set forth in John Yoo & Todd Gaziano, American Enterprise Institute, “Presidential Authority to Revoke or Reduce National Monument Designations” (Mar. 2017) (*available at* <https://www.aei.org/wp-content/uploads/2017/03/Presidential-Authority-to-Revoke-or-Reduce-National-Monument-Designations.pdf>), as well as in other authorities, we think such authority is inherent and unmistakable.

We wish to emphasize that we are not proposing that the Department of the Interior recommend to the President that he *revoke* Castle Mountains National Monument. Consistent with what has always been our position—that the Castle Mountains Gold Project and conservation of resources surrounding the Mine can co-exist—we simply ask that the Department recommend *modifying* the CMNM to achieve a more sensible balance between those multiple uses. We discuss our specific requests in the next section.

EXHIBIT 2

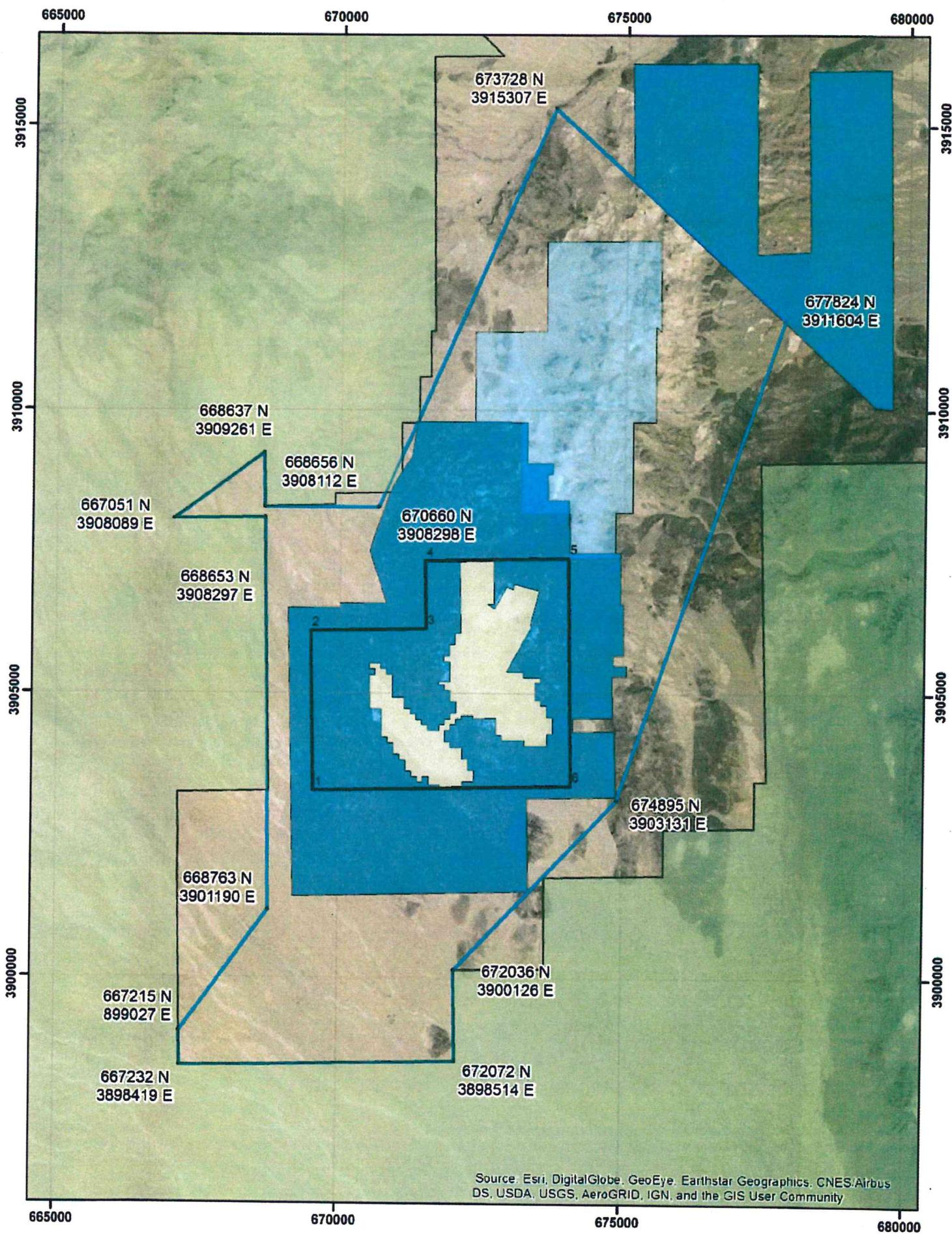


EXHIBIT 3

The White House
Office of the Press Secretary
For Immediate Release

DATE **February 12, 2016**

Presidential Proclamation -- Establishment of the Castle Mountains National Monument

ESTABLISHMENT OF THE CASTLE MOUNTAINS NATIONAL MONUMENT

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA A PROCLAMATION

The Castle Mountains area, bounded on three sides by Mojave National Preserve (Preserve), possesses **outstanding** natural, cultural, and historical values **representing some of the finest** characteristics of the eastern Mojave Desert. **It connects** The area **contains** water flows and wildlife corridors **of found in** the Preserve, and completes the boundary of the Preserve along the California-Nevada border. Beneath **the shadow of** Hart Peak lie **rich** certain cultural and historic resources, including Native American archeological sites and **the remnants of the historic gold mining ghost town of** Hart **gold mining area**. Exposed geologic features contribute to the area's **outstanding** scenery.

Shaped by millions of years of geologic forces, the rugged Castle Mountains are emblematic of the Mojave landscape. The Castle Mountains rise from the broad sweep of the Lanfair Valley to a height of over 5,000 feet, presenting a **picturesque** skyline visible from many locations within the Preserve, while also affording **spectacular** views of the Preserve and beyond. Hart Peak is the prominent feature in the Castle Mountains skyline at 5,543 feet. **Views from Hart Peak encompass vast wilderness and distinctive peaks, including Spirit Mountain in Nevada, a sacred site to many Native American tribes. The remoteness of the Castle Mountains area offers visitors the**

~~chance to experience the solitude of the desert and its increasingly rare natural soundscapes and dark night skies.~~

Much of the Castle Mountains area is already part of, and protected by, the 1.6-million-acre Preserve established in 1994, making the addition of a large National Monument unnecessary. Nonetheless, the area does contain outstanding resources and values that merit modest protection under the Antiquities Act. For example, ~~The~~ The Castle Mountains area provides a ~~critical~~ linkage for plants, animals, and water between two mountain ranges within the Preserve, the New York Mountains to the northwest and the Piute Mountains to the southeast. The area's high quality desert habitat includes some of the finest Joshua tree forest in the Mojave Desert, as well as pinyon pine and juniper forest at the upper elevations. The area's native desert grassland is a hotspot of botanical diversity. The unique plant assemblage includes 28 species of native grasses, about half of which are rare, including burrograss and false buffalograss.

Protection of this relatively intact and undisturbed habitat is important not just to the long-term survival of many plant species but also to significant wildlife populations. A herd of desert bighorn sheep lives on the steep, rocky slopes of the Castle Mountains. They and other wildlife traverse the area between the Piute Mountains and the New York Mountains. Numerous bat species live in rock crevices and mine remnants in the area. Wildlife species of special concern include the Townsend's big-eared bat, California leaf-nosed bat, Swainson's hawk, golden eagle, desert tortoise, Bendire's thrasher, and gray vireo. ~~While many of these species are found in high elevations, they are more common in lower elevations.~~

With its habitat linkages, wildlife corridors, and intact ecosystems, the area offers exceptional opportunities to study plant and animal movement and connections between diverse natural systems, especially in the context of climate change. Ongoing studies of desert bighorn sheep and other plant and animal species have shown the priority of this area for scientific research. A recent study using network models of bighorn sheep genetic and demographic connectivity as tools for landscape-scale conservation found the Castle Mountains habitat to be one of the most important in the Mojave Desert. Botanists are finding new and rare plant populations, and significant new information regarding the range of species such as Mexican panicgrass, in the Castle Mountains area.

~~The Castle Mountains area is the only remaining portion of the 226-square-mile Lanfair Valley watershed that is not part of the Preserve. Underlying much of the Lanfair Valley, including the Castle Mountains area, is a large groundwater aquifer of critical importance to the desert ecosystem. With its primary recharge zone in the New York Mountains, this aquifer feeds Piute Spring, located in the Preserve just south of the Castle Mountains area. Piute Spring is the only perennial stream and riparian corridor in the Preserve, and attracts numerous flora and fauna.~~

~~As a rare desert water source, Piute Spring attracted Native American habitation for thousands of years, followed by Euro-American exploration and settlement. Drawn to this reliable source of potable water, in 1867 the U.S. Army established Fort Piute (listed on the National Register of Historic Places) adjacent to the spring to provide protection to travelers on the Old Spanish Trail (known locally as the Mojave Road) that crossed the Mojave Desert from the Colorado River to San Bernardino, California. Maintenance of the groundwater resources and flow to Piute Spring is essential to the historical and scientific value of both the area and the Preserve.~~

The Castle Mountains area also contains ~~other~~ cultural resources that reflect a long history of prehistoric and historic human use. Prehistoric rock art and archeological sites are found throughout the area. The rock art indicates sites of ~~significant~~ cultural import to both the Fort Mojave and Chemehuevi Tribes, marking routes through the Castle Mountains likely traveled by both tribes. The Castle Mountains area links places to the south, like Piute Spring, to areas north, such as an obsidian collection site. Western expansion brought ranching, mining, and the railroad to the area. ~~Some of the best preserved~~ Segments of a wagon road that linked the Arizona Territory (Hardyville, now Bullhead City, Arizona) to settlements in southern California can be found in the Castle Mountains area. Ranchers grazed cattle in the area ~~for a very long time~~. By 1894, the Rock Springs Land and Cattle Company had consolidated its holdings in the eastern Mojave Desert. Much of their historic ranch lies within the Preserve, and features of this and other grazing enterprises of the era can still be seen in the Castle Mountains area. In 1907, brothers Bert and Clark Hitt found rich gold ore, staking claims that became the Oro Belle and Big Chief Mines. With James Hart, they founded the town of Hart at the base of Hart Peak. Between 1908 and 1910, the town of Hart underwent a rapid boom and bust, and by 1920, Hart had become a ghost town. Throughout this period of western expansion, railroads served the ranchers, miners, Hart residents, and others in the eastern Mojave Desert. Part of the former

23-mile Barnwell and Searchlight Railway, later incorporated into the California Eastern Railway, ran through the Castle Mountains area.

Finally, the Castle Mountains area contains a longstanding gold mining operation, the Viceroy/Castle Mountain Mine (established in 1989), and associated road access. The gold mine has not adversely affected the area's species, historic artifacts, viewsheds, recreational, or other resources or values. In fact, the mine has been proof of the compatibility between conservation on the one hand and productive use of public lands on the other. An appropriately sized and tailored National Monument can provide ample, lasting protection to the Castle Mountains area's outstanding resources and values while still allowing other valuable uses of public lands to take place. If the Federal Government acquires any lands or interests in lands not owned or controlled by the Federal Government within the boundaries described on the accompanying map, such lands and interests in lands shall be reserved as a part of the monument.

WHEREAS, section 320301 of title 54, United States Code (known as the "Antiquities Act"), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

WHEREAS, it is in the public interest to preserve and protect the historic and scientific objects in the Castle Mountains area;

WHEREAS, the protection of the Castle Mountains area's outstanding objects of historic and scientific interest would also contribute to the protection of the resources and values of the Preserve;

NOW, THEREFORE, I, **DONALD J. TRUMP**~~BARACK OBAMA~~, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim the objects identified above that are situated upon lands and interests in lands owned or controlled by the Federal Government to be the Castle Mountains National Monument (monument) and, for the purpose of protecting those objects, reserve as a part thereof all lands and interests in lands owned or controlled by the Federal Government within the boundaries described on

the accompanying map, which is attached to and forms a part of this proclamation. The reserved Federal lands and interests in lands encompass approximately ~~20,920~~ 10,000 acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests in lands within the boundaries described on the accompanying map are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing.

The establishment of the monument is subject to valid existing rights. If the Federal Government acquires any lands or interests in lands not owned or controlled by the Federal Government within the boundaries described on the accompanying map, such lands and interests in lands shall be reserved as a part of the monument, and objects identified above that are situated upon those lands and interests in lands shall be part of the monument, upon acquisition of ownership or control by the Federal Government.

Nothing in this proclamation shall be construed to interfere with the development or operation of valid existing mining claims, whether patented or unpatented placer, lode, or mill site claims, or with the development, operation or exercise of valid existing water rights or existing water, utility, pipeline, or telecommunications facilities located within the boundaries of the National Monument upon the date of this proclamation. Nor shall anything in this proclamation be construed to interfere with the location, development, and exercise of additional water rights or water, utility, pipeline, or telecommunications facilities within the boundaries of the National Monument, as may be required for all purposes reasonably incident to the development and operation of valid existing mining claims, including those associated with the Castle Mountains Mine. The development, operation, and/or exercise of valid existing mining claims, valid existing water rights, and/or additional water rights or water, utility, pipeline, or telecommunications facilities shall be subject to, and consistent with, the proper care and management of the objects protected by this proclamation as well as governing laws and regulations, including those of the Department of the Interior and the State of California, as applicable, but approvals by

the Department of the Interior to develop or exercise the rights associated with those claims, rights, and facilities shall not be unreasonably withheld or delayed.

Nothing in this proclamation shall be deemed to enlarge or diminish the rights of any Indian tribe. The Secretary of the Interior (Secretary) shall, to the maximum extent permitted by law and in consultation with Indian tribes, ensure the protection of Indian sacred sites and cultural sites in the monument and provide access to the sites by members of Indian tribes for traditional cultural and customary uses, consistent with the American Indian Religious Freedom Act (42 U.S.C. 1996) and Executive Order 13007 of May 24, 1996 (Indian Sacred Sites).

The Secretary shall manage these lands through the National Park Service, ~~in consultation with the Bureau of Land Management on mining claims and mining-related facilities, pursuant to applicable authorities, and~~ consistent with the purposes and provisions of this proclamation. The Secretary shall prepare a management plan to implement the purposes of this proclamation, with full public involvement, within 3 years of the date of this proclamation. For the purpose of protecting the objects identified above, all motorized and mechanized vehicle use off road will be prohibited, except for emergency or authorized administrative purposes. The Secretary shall continue to manage the Federal lands and interests in lands within the adjacent area labelled "Castle Mountain Mine Area" on the accompanying map through the Bureau of Land Management, pursuant to applicable authorities. ~~Upon the determination of the Secretary that either (1) all mining and mining related activities have terminated and reclamation has been completed, or (2) a period of 10 years from the date of this proclamation has elapsed during which no commercial mining activities have occurred pursuant to a Bureau of Land Management approved plan of operations, the Secretary shall, consistent with applicable legal authorities, transfer jurisdiction of the lands within the Castle Mountain Mine Area to the National Park Service and ensure that the lands are managed in a manner compatible with the proper care and management of the objects identified above.~~

Nothing in this proclamation shall be deemed to enlarge or diminish the jurisdiction of the State of California with respect to fish and wildlife management.

~~The Federal land managing agencies shall, in cooperation with appropriate State officials and subject to applicable State and Federal law, ensure the availability of water resources, including groundwater resources, needed for monument purposes.~~

This proclamation does not reserve water rights in or to the United States under the federal reserved water rights doctrine. Nor shall any part of this proclamation be read to conflict with, or adversely affect, the water rights or requirements of the Castle Mountain Mine Area and associated mining operations.

Nothing in this proclamation shall restrict or preclude low level overflights of military aircraft, the designation of new units of special use airspace, or the use or establishment of military flight training routes over the lands reserved by this proclamation, consistent with the care and management of the objects to be protected.

Nothing in this proclamation shall be construed to alter the authority or responsibility of any party with respect to emergency response activities within the monument, including wildland fire response.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the monument shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this DATE ~~twelfth day of~~
~~February, in the year of our Lord two thousand sixteen,~~ and of the Independence of the United States of America the ~~two hundred and fortieth~~ YEAR.

DONALD J. TRUMP ~~BARACK OBAMA~~